

Approved

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Approved as circulated 4/23/18

Board/Commission:		CHARTER REVIEW COMMISSION		Meeting Date	March 19, 2018
Location	Mo’ikeha Building, Meeting Room 2A/2B			Start of Meeting: 3:11 p.m.	End of Meeting: 4:48 p.m.
Present	Vice Chair Jan TenBruggencate; Members: Virginia Kapali, Galen Nakamura (<i>entered at 3:17 p.m.</i>), Ricky Watanabe, and Marissa Sandblom Also: Deputy County Attorney Adam Roversi; Boards & Commissions Office Staff: Administrative Specialist Lani Agoot and Administrator Nicholas R. Courson				
Excused	Chair Carol Suzawa				
Absent					
SUBJECT		DISCUSSION			ACTION
Call To Order					Vice Chair TenBruggencate called the meeting to order at 3:11 p.m. with four Commissioners present.
Communications		There were no Communications.			
Approval of Minutes		<u>Meeting Minutes of February 26, 2018</u>			Ms. Kapali moved to approve the meeting minutes of February 26, 2018, as circulated. Ms. Sandblom seconded the motion. Motion carried 4:0.
Business		<u>CRC 2017-05 Proposed Charter Amendment to Remove the Zoning Board of Appeals, Article XIV Subsection 14.12 – 14.14 (deferred 10/23/17, 11/27/17, 12/18/17, 1/22/18, 2/26/18)</u> Vice Chair TenBruggencate called for public testimony of which there was none.			

SUBJECT	DISCUSSION	ACTION
	<p>Vice Chair TenBruggencate briefed the Commission on the proposed Charter Amendment, saying that the original proposal was to remove the Zoning Board of Appeals (ZBA) and replace it with a proposed Charter amendment relating to a hearings officer. He said the Commission's attorney recommended separating the two proposed amendments, and that there was no downside if one amendment gets approved and the other one does not. Vice Chair TenBruggencate suggested that the Commission approve the proposed Charter Amendment for placement on the 2018 ballot.</p>	<p>Mr. Watanabe moved to approve CRC 2017-05 for placement on the 2018 ballot. Ms. Kapali seconded the motion. Motion carried 4:0.</p>
	<p><u>CRC 2017-14 Proposed Charter Amendment to Amend Article VII, Subsection 7.06 by giving the Administrator of the Office of Boards and Commissions the authority to appoint or procure a hearings officer for the County of Kaua'i</u></p> <p>Vice Chair TenBruggencate stated that the language for the proposed Charter Amendment was in the Commissioner's Executive Session packet and asked the Commission's attorney for guidance.</p> <p>Deputy County Attorney Adam Roversi stated that the proposed Charter Amendment was referred to the County Attorney's Office to address the issues raised at the Commission's last meeting. He said he was fine with having the discussion in Open Session; however, if the Commission preferred, they could take the matter up in Executive Session first, and then return to Open Session for further discussion and possible decision-making. Vice Chair TenBruggencate suggested the item be taken up after the Executive Session.</p>	
	<p><u>CRC 2017-08 Proposed Charter Amendment to Amend Article XIX, Financial Procedures, Section 19.15(C) by adding language to include corresponding improvement and maintenance of those lands or property entitlements (deferred 11/27/17, 12/18/17, 1/22/18, 2/26/18)</u></p> <p><i>Mr. Nakamura entered the meeting at 3:17 p.m.</i></p>	

SUBJECT	DISCUSSION	ACTION
	<p>Ms. Kapali stated that she had a concern regarding Section 19.15C(3) of the proposed language: <i>“The monies in this fund may also be used to improve or maintain public pedestrian access to coastal areas.”</i> She said at the last meeting there was concern that the language was a bit broad because the Administration could decide to use the fund for <i>any</i> public access, not just the ones purchased with the Open Space Fund. Mr. Roversi clarified that the language, as written, does permit the use of the money for <i>any</i> coastal access, not just properties that were procured using the Open Space Fund. As a point of information, he said the Open Space Fund has only procured one property since 2009, which was the Hodge parcel for the expansion of Black Pot Beach Park, and that there is currently a purchase pending for the acquisition of a Chinese Cemetery in Kekaha. Mr. Roversi stated that although the Open Space Commission has recommended the acquisition of many parcels, the County Council has never approved any of them. He said there are just under 100 access trails and easements around the entire island. Ms. Kapali said she recalled Mr. Nakamura saying at the last meeting that even if the Open Space Commission wanted to make improvements to a public access, they had to have prior approval from the County Council. She said there was also discussion regarding putting a cap on the funds for improvements and maintenance.</p> <p>Planning Director Michael Dahilig stated that apart from the 5 percent of the fund that is set aside for administrative expenses, the rest of the fund is subject to appropriations. The proposed Charter amendment would empower the legislative branch to support improvements and maintenance should they choose to do so.</p> <p>Vice Chair TenBruggencate stated that according to the newspaper, there is pending legal action with regard to reopening an existing public access that has been closed for many years. If the County wins the case and reopens the access, it would probably take some money to improve and/or maintain the public access. He said he is more supportive of the proposed Charter Amendment than he was before as a result of this type of situation.</p> <p>Ms. Sandblom said she remembered the Commission’s discussion regarding putting a cap on the funds for improvements and maintenance at the last meeting, and that the Planning Department mentioned they were not opposed to setting a cap; however, they had some concerns about a cap</p>	

SUBJECT	DISCUSSION	ACTION
	<p>prohibiting the Open Space Commission from prioritizing projects. Mr. Dahilig stated that ultimately, how the money is used in any given year is a reflection of the fiscal demands on the County at any given time. He said the current fund balance is six million dollars and if a recommendation for an appropriation of six million dollars for improvement and maintenance costs was presented to the County Council, he felt there would be an issue with that. However, adding language to the proposed amendment from a limitation standpoint regarding what the legislative branch can or can't do would be the Commission's purview.</p> <p>Vice Chair TenBruggencate stated that his understanding was that the County Council couldn't spend the Open Space Fund monies without a recommendation from the Open Space Commission. Mr. Roversi clarified that the County Council could spend the money with a recommendation from the Open Space Commission, provided they were within the allowable categories of use.</p> <p>Ms. Kapali asked for clarification of the Open Space Commission's budgetary process with the County Council to which Mr. Dahilig explained that the only thing presented to the County Council was the 5 percent used for administrative purposes as part of the Planning Department's annual budget; appropriation requests were in the form of money bills.</p> <p>Vice Chair TenBruggencate questioned whether it was clear that the County Council's appropriation of funds was necessary to take money out of the Open Space Fund and spend it. Mr. Nakamura clarified that every expenditure has to be appropriated through a legislative body.</p> <p>Mr. Roversi provided that it was his understanding that the Open Space Commission only has the authority to recommend acquisitions; they have no authority to use the funds. He added that the County Council can accept, reject, or come up with their own ideas regarding the use of the funds.</p> <p>As a matter of housekeeping, Ms. Sandblom said the numbering on page 2 had to be corrected because there were two number 3s.</p>	<p>Ms. Kapali moved to approve CRC 2017-08 with the correction of</p>

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	<p>For the purpose of discussion, Mr. Nakamura suggested amending Section 19.15C(3) as follows: <i>“The monies in this fund may also be used to improve or maintain public pedestrian accesses to coastal areas, <u>as recommended by the Open Space Commission.</u>”</i> He said his intent is to give the Open Space Commission some authority.</p> <p>Mr. Dahilig stated that the Open Space Commission was created by ordinance and by adding the suggested language, the Open Space Commission would become a Chartered Commission.</p> <p>Vice Chair TenBruggencate asked Mr. Dahilig if his recommendation was to not add the language to which Mr. Dahilig stated that ultimately, the decision was the will and authority of the Charter Review Commission as to the expenditure of the fund by legislation, or by community board. Based on the Commission’s concerns, he suggested the Commission may want to have further discussions with regard to whether or not the Open Space Commission should be a permanent commission, and what the balance should be between the Open Space Commission and the legislative branch with regard to appropriation authority.</p> <p>Mr. Nakamura asked if the administrative expenses portion was created by ordinance to which Mr. Dahilig replied no, it was created by a Charter Amendment.</p> <p>With no further discussion, Vice Chair TenBruggencate called for the vote.</p> <p>Mr. Roversi stated that the approved language should be sent to the County Attorney’s Office for</p>	<p>the numbering. Ms. Sandblom seconded the motion.</p> <p>Mr. Watanabe moved to amend the main motion by adding, <i>“[A]s recommended by the Open Space Commission.”</i></p> <p>Mr. Watanabe withdrew his motion to amend the main motion.</p> <p>Motion carried 5:0.</p>

SUBJECT	DISCUSSION	ACTION
	review and comment at the next meeting.	
Executive Session	Vice Chair TenBruggencate called for public testimony to which there was none.	Mr. Watanabe moved to go into Executive Session at 3:40 p.m. Mr. Nakamura seconded the motion. Motion carried 5:0.
Return to Open Session	<u>Ratify Commission actions taken in Executive Session for items: ES-005 and ES-006.</u>	Mr. Nakamura moved to ratify the Commission's actions taken for ES-005 and ES-006. Ms. Sandblom seconded the motion. Motion carried 5:0.
Announcements	<u>Next Meeting: Monday, April 23, 2018, 3:00 p.m., in the Mo'ikeha Building, Meeting Room 2 A/B</u>	
Adjournment		Vice Chair TenBruggencate adjourned the meeting at 4:48 p.m.

Submitted by: _____
Lani Agoot, Administrative Specialist

Reviewed and Approved by: _____
Carol Suzawa, Chair

() Approved as circulated.

() Approved with amendments. See minutes of _____ meeting.